

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT BLUEFIELD

UNITED STATES OF AMERICA

v.

CRIMINAL NO. 1:18-00243

KIMBERLY ANN ADDAIR

MEMORANDUM OPINION AND ORDER

Pending before the court is defendant's motion to continue the deadline for the filing of pretrial motions and the pretrial motions hearing date for a period of two weeks. (ECF No. 25). In support of defendant's motion and the need for a continuance, counsel for Addair states that she needs additional time for plea negotiations. Counsel further states that she has a scheduling conflict with the pretrial motions hearing as scheduled. The government does not oppose defendant's request for a continuance.

Because failure to grant the requested continuance would likely result in a miscarriage of justice, the court finds that the ends of justice outweigh the best interest of the defendant and the public in a speedy trial, see 18 U.S.C. § 3161(h)(7)(A), and GRANTS the defendant's motion to continue. In deciding to grant the motion to continue, the court considered the factors outlined in 18 U.S.C. §3161(h)(7)(B) and found that failure to grant a continuance would deny counsel the reasonable time necessary for effective preparation, taking into account the exercise of due diligence.

Accordingly, the court hereby **ORDERS** as follows:

1. Trial of this action is continued until April 3, 2019, at 9:30 a.m., in Bluefield. Jury instructions and proposed voir dire are to be filed by March 27, 2019;*
2. All pretrial motions are to be filed by February 5, 2019;
3. A pretrial motions hearing is scheduled for February 28, 2019, at 1:30 p.m., in Bluefield;
4. Pursuant to 18 U.S.C. § 3161(h)(7)(A), the time from the filing of the motion until the trial is excludable for purposes of the Speedy Trial Act.

The Clerk is directed to send a copy of this Memorandum Opinion and Order to counsel of record, to the United States Marshal for the Southern District of West Virginia, and to the Probation Office of this court.

IT IS SO ORDERED this 23rd day of January, 2019.

ENTER:

A handwritten signature in cursive script, reading "David A. Faber", is written over a horizontal line.

David A. Faber

Senior United States District Judge

* Although defendant did not request a continuance of the trial date, it was necessary to move the trial to accommodate the new date for the pretrial motions hearing.